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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 NATHANIAL CHARLES HARRIEL, SR.,  
7 Plaintiff,  
8 v.  
9 RENO POLICE DEPARTMENT, *et al.*,  
10 Defendants.

Case No. 3:22-cv-00419-ART-CSD  
ORDER ADOPTING REPORT AND  
RECOMMENDATION (ECF NO. 12)  
AND DISMISSING WITHOUT  
PREJUDICE

11 *Pro se* Plaintiff Nathaniel Charles Harriel, Sr., brings this action under 42  
12 U.S.C. § 1983 complaining of unlawful arrest and unlawful search by Officer  
13 Sanchez of the Reno Police Department. Before the Court is the Report and  
14 Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney  
15 (ECF No. 12), recommending the dismissal of this action without prejudice  
16 because Mr. Harriel failed to comply with a court order requiring him to update  
17 the court on the status of his underlying criminal case, (ECF No. 11). Plaintiff  
18 had until September 5, 2023 to file an objection to Judge Denney’s R&R. (ECF  
19 No. 12 at 4.) To date, no objection has been filed. For this reason, and as  
20 explained below, the Court adopts the R&R and dismisses the present action  
21 without prejudice.

22 The Court “may accept, reject, or modify, in whole or in part, the findings  
23 or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where  
24 a party fails to object to a magistrate judge’s recommendation, the Court is not  
25 required to conduct “any review at all . . . of any issue that is not the subject of  
26 an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v.*  
27 *Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the  
28 magistrate judges’ findings and recommendations is required if, but *only* if, one

1 or both parties file objections to the findings and recommendations.”) (emphasis  
2 in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that  
3 the Court “need only satisfy itself that there is no clear error on the face of the  
4 record in order to accept the recommendation.”).

5 Because there is no objection, the Court need not conduct de novo review  
6 and is satisfied Judge Denney did not clearly err. Here, Judge Denney  
7 recommends dismissal without prejudice because Mr. Harriel failed to comply  
8 with a court order (ECF No. 11) requiring him to update the Court on the status  
9 of his underlying criminal case. Mr. Harriel has previously failed to comply with  
10 a similar order and has not made any contact with the Court since February of  
11 this year. (ECF Nos. 7 (granting Mr. Harriel until May 5, 2023 to amend his  
12 Complaint and update the Court on the status of his criminal case).)

13 A court may dismiss an action based on a party’s failure to comply with a  
14 court order. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992). In  
15 determining whether to dismiss an action, a Court must consider: (1) the public’s  
16 interest in expeditious resolution of litigation; (2) the court’s need to manage its  
17 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
18 disposition of cases on their merits; and (5) the availability of less drastic  
19 alternatives. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
20 (9th Cir. 1986); *Henderson v. Duncan*, 779 F.2d 1421, 1423-24 (9th Cir. 1986);  
21 *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987); *Ferdik*, 963 F.2d  
22 at 1260-61; *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Judge Denney  
23 considered each of these factors and found that factors (1), (2), (3), and (5)  
24 weighed in favor of dismissal. (ECF No. 12 at 3.) While Judge Denney found  
25 factor (4) weighed against dismissal, he concluded it was outweighed by the other  
26 factors. He also concluded that dismissal without prejudice was appropriate in  
27 light of the Court’s prior warning to Mr. Harriel that he risked dismissal if he  
28 continued to ignore the Court’s orders. (*Id.*) The Court agrees with Judge Denney


1 and concludes that he did not clearly err in recommending dismissal. Having  
2 reviewed the R&R and the record in this case, the Court will adopt the R&R in  
3 full.

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7 It is therefore ordered that Judge Denney's Report and Recommendation  
(ECF No. 12) is accepted and adopted in full.

8 It is further ordered that this case is dismissed, without prejudice. The  
9 Court Clerk is directed to enter judgment accordingly and close the case.

10 Dated this 21<sup>st</sup> Day of November 2023.

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13 ANNE R. TRAUM  
14 UNITED STATES DISTRICT JUDGE  
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